

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IRA LEE COLLINS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:24-cv-00467-SEB-CSW
	)	
MILLER, et al.,	)	
	)	
Defendants.	)	

**Order Granting Unopposed Motion for Summary Judgment  
and Directing Entry of Final Judgment**

Plaintiff filed this action contending that his constitutional rights were violated while he was incarcerated at the Reception Diagnostic Center ("RDC"). Plaintiff alleges that Officer Johnson took his Bible and Officer Miller wouldn't allow him to go to religious services in violation of his First Amendment rights. Defendants move for summary judgment arguing that Plaintiff failed to exhaust his available administrative remedies as required by the Prison Litigation Reform Act ("PLRA") before filing this lawsuit. For the reasons explained below, the motion for summary judgment, dkt. [34], is **GRANTED** and the action is **DISMISSED WITHOUT PREJUDICE**.

**I.  
Summary Judgment Standard**

A motion for summary judgment asks the Court to find that a trial is unnecessary because there is no genuine dispute as to any material fact and, instead, the movant is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a). When reviewing a motion for summary judgment, the Court views the record and draws all reasonable inferences from it in the light most favorable to the nonmoving party. *Khungar v. Access Cmty. Health Network*, 985 F.3d 565, 572–73 (7th Cir. 2021). It cannot weigh evidence or make credibility determinations on summary judgment because

those tasks are left to the fact-finder. *Miller v. Gonzalez*, 761 F.3d 822, 827 (7th Cir. 2014). A court only has to consider the materials cited by the parties, *see* Fed. R. Civ. P. 56(c)(3); it need not "scour the record" for evidence that might be relevant. *Grant v. Trs. of Ind. Univ.*, 870 F.3d 562, 573–74 (7th Cir. 2017) (cleaned up).

A party seeking summary judgment must inform the district court of the basis for its motion and identify the record evidence it contends demonstrates the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

Whether a party asserts that a fact is undisputed or genuinely disputed, the party must support the asserted fact by citing to particular parts of the record, including depositions, documents, or affidavits. Fed. R. Civ. P. 56(c)(1)(A). Failure to properly support a fact in opposition to a movant's factual assertion can result in the movant's fact being considered undisputed, and potentially in the grant of summary judgment. Fed. R. Civ. P. 56(e).

Mr. Collins failed to respond to the summary judgment motion. Accordingly, facts alleged in the motion are "admitted without controversy" so long as support for them exists in the record. S.D. Ind. L.R. 56-1(f); *see* S.D. Ind. L.R. 56-1(b) (party opposing judgment must file response brief and identify disputed facts). "Even where a non-movant fails to respond to a motion for summary judgment, the movant still has to show that summary judgment is proper given the undisputed facts." *Robinson v. Waterman*, 1 F.4th 480, 483 (7th Cir. 2021) (cleaned up).

## **II. Factual Background**

Mr. Collins was incarcerated at RDC from October 4, 2023, through November 21, 2023, when he was transferred to Correctional Industrial Facility ("CIF"). Dkt. 36-4 at 1.

#### **A. Offender Grievance Process**

The IDOC has a standardized offender grievance process which was in place during the time Plaintiff alleges his rights were violated. Dkt. 36-1 ¶ 8-9; dkt. 36-3. The grievances process applies to, among other things, the actions of individual staff members. Dkt. 36-3 at 3.

During the relevant period, the grievance process consisted of three steps: (1) submitting a formal grievance following unsuccessful attempts at informal resolution; (2) submitting a written appeal to the facility Warden/designee; and (3) submitting a written appeal to the IDOC Grievance Manager. Dkt. 36-3. Successful exhaustion of the grievance process requires timely pursuing each step or level of the process. *Id.* Inmates are advised of the grievance process during their initial orientation at RDC and the grievance process is available at the law library. Dkt. 36-1 ¶ 11.

#### **B. Plaintiff's Participation in the Grievance Process**

There is no record that Mr. Collins filed any grievances regarding his claim that Officer Johnson confiscated his Bible when he was at RDC. Dkt. 36-1 ¶ 44. There is also no record that Mr. Collins submitted any grievances related to his claim that Officer Miller prevented him from accessing religious services when he was at RDC. *Id.*

### **III. Discussion**

The PLRA requires that a prisoner exhaust available administrative remedies before suing over prison conditions. 42 U.S.C. § 1997e(a). "[T]he PLRA's exhaustion requirement applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes, and whether they allege excessive force or some other wrong." *Porter v. Nussle*, 534 U.S. 516, 532 (2002) (citation omitted).

"To exhaust administrative remedies, a prisoner must comply strictly with the prison's administrative rules by filing grievances and appeals as the rules dictate." *Reid v. Balota*, 962 F.3d

325, 329 (7th Cir. 2020) (citing *Woodford v. Ngo*, 548 U.S. 81, 90-91 (2006)). A "prisoner must submit inmate complaints and appeals 'in the place, and at the time, the prison's administrative rules require.'" *Dale v. Lappin*, 376 F.3d 652, 655 (7th Cir. 2004) (quoting *Pozo v. McCaughtry*, 286 F.3d 1022, 1025 (7th Cir. 2002)).

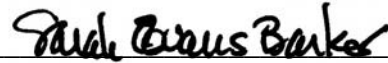
"Because exhaustion is an affirmative defense," Defendants face the burden of establishing that "an administrative remedy was available and that [Mr. Collins] failed to pursue it." *Thomas v. Reese*, 787 F.3d 845, 847 (7th Cir. 2015). "[T]he ordinary meaning of the word 'available' is 'capable of use for the accomplishment of a purpose,' and that which 'is accessible or may be obtained.'" *Ross v. Blake*, 578 U.S. 632, 642 (2016) (internal quotation omitted). "[A]n inmate is required to exhaust those, but only those, grievance procedures that are capable of use to obtain some relief for the action complained of." *Id.* (internal quotation omitted).

Defendants have shown that Mr. Collins failed to file any grievances regarding his claims in this case. Failing to respond to the motion for summary judgment, Mr. Collins has failed to dispute these facts. He has also failed to show that he was unaware of the grievance process or that it was made unavailable to him. In short, Mr. Collins did not complete the available administrative process as required before filing this lawsuit. *Reid*, 962 F.3d at 329. The consequence of his failure to exhaust his administrative remedies, in light of 42 U.S.C. § 1997e(a), is that his claims against Defendants must be dismissed without prejudice. *Id.*; *see also Ford v. Johnson*, 362 F.3d 395, 401 (holding that "all dismissals under § 1997e(a) should be without prejudice.").

#### IV. Conclusion

For the above reasons, Defendants' unopposed motion for summary judgment, dkt. [34], is **GRANTED**. Judgment dismissing this action without prejudice shall now issue.

Date: 5/13/2025



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

Distribution:

IRA LEE COLLINS  
230708  
CORRECTIONAL INDUSTRIAL FACILITY (CIF)  
CORRECTIONAL INDUSTRIAL FACILITY  
Inmate Mail/Parcels  
5124 West Reformatory Road  
PENDLETON, IN 46064

Emily Hoegler  
Office of Indiana Attorney General  
emily.hoegler@atg.in.gov

Katherine A Meltzer  
Office of Indiana Attorney General  
katherine.meltzer@atg.in.gov